

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

LARRY JAMES

PLAINTIFF

VS.

NO. 4:07cv208-SA-DAS

**CIRCUS CIRCUS MISSISSIPPI, INC.
Doing Business as Gold Strike Casino Resort**

DEFENDANT

REPORT AND RECOMMENDATION

Before the Court is the Defendant's Motion to Dismiss for Failure to Prosecute [doc. 19], filed October 31, 2008. The plaintiff failed to respond to the motion, and the matter is now ripe for review.

By Order [doc. 15] dated August 28, 2008, the Court granted plaintiff's counsel's motion for leave to withdraw and stayed proceedings until October 27, 2008, to allow the plaintiff to either retain new counsel or advise the Court in writing of his decision to proceed *pro se*. The plaintiff was warned that his failure to comply with the Court's Order could lead to dismissal of his case for failure to prosecute. A copy of that Order was mailed to the plaintiff at his last known address. The stay has now expired, and the plaintiff has not contacted the Court.

Based on the foregoing, it appears the plaintiff has lost interest in this lawsuit, and it should not remain on the Court's docket. Therefore, it is recommended that the defendant's motion be granted and that this action be dismissed with prejudice for failure to prosecute pursuant to FED.R.CIV.P. 41(b).

The parties are referred to Local Rule 72.2(D) for the applicable procedure in the event any

party desires to file objections to the findings and recommendations herein contained. The parties are warned that any such objections are required to be in writing and must be filed within ten days of this date. Failure to timely file written objections to the proposed findings, conclusions and recommendations contained in this report will bar an aggrieved party, except upon grounds of plain error, from attacking on appeal unobjected-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

Respectfully submitted this, the 19th day of November, 2008.

/s/ David A. Sanders
U. S. MAGISTRATE JUDGE